DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD

Date: July 21, 2026

In the matter of:

Applicant for Security Clearance

ISCR Case No. 25-01349

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT
Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT
Daniel Conway, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 22, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline F (Financial Considerations) and Guideline H (Drug Involvement and Substance Misuse) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On May 22, 2026, Defense Office of Hearings and Appeals Administrative Judge Charles C. Hale denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Discussion

Under Guideline F, the SOR alleged that Applicant carried delinquent consumer debt totaling approximately $53,000, and that he owed delinquent federal taxes of approximately $14,800 for tax years 2021 to 2023 and delinquent state taxes of about $14,000 for tax years 2021 to 2024. The SOR further alleged incidents related to Applicant's marijuana use under Guideline H, including a positive drug test in 2014, citation for possession in 2018, use while holding a sensitive position in early 2021, and another positive drug test and non-judicial punishment in

April 2021. In response to the SOR, Applicant admitted all allegations without explanation and requested that his case be decided based on the written record. He received a complete copy of the Government's File of Relevant Material (FORM) on February 26, 2026, through which he was notified of the ability to respond with any objections or additional information for the Judge to consider. Applicant responded to the FORM with documentation reflecting that he retained a tax relief company in December 2025 to attempt resolution of his federal tax balance.

The Judge resolved the Guideline H concerns favorably, finding that Applicant's past marijuana use was mitigated through his voluntary disclosure and cooperation in addressing the subject during his current investigation, the passage of time since his last use in 2021, and his assertions that he does not intend to use marijuana in the future. The Judge also found that "Applicant's consumer debt arose after his divorce and job loss" and that he demonstrated responsible action by "addressing his debt through payments and working with debt relief companies." Decision at 7. As a result, the consumer debt allegations were resolved favorably.

Regarding the Guideline F tax concerns, the Judge found that Applicant only recently filed his federal and state returns in June 2025 and, although his evidence reflected that he was working to resolve the debt, Applicant had not established payment plans for either tax balance. The Judge concluded that the four tax allegations were unmitigated and resolved them adversely.

On appeal, Applicant challenges these adverse findings and, pointing to new evidence about the statuses of his federal and state tax balances, argues that mitigating conditions AG ¶¶ 20(a) and 20(b) should have applied. The Appeal Board is prohibited from considering new evidence on appeal,[1] and Applicant's argument is otherwise unpersuasive.

AG ¶ 20(a) affords mitigation when the alleged behavior happened so long ago, was so infrequent, or occurred under circumstances making it unlikely to recur. Here, Applicant failed to timely file his federal and state tax returns for multiple years and, although the tax *filing* deficiencies were addressed in June 2025, the tax *payment* concerns as alleged in the SOR remain unresolved and ongoing. The conduct was therefore both frequent and recent, and the Judge appropriately declined to apply AG ¶ 20(a). Similarly, AG ¶ 20(b) considers not only the circumstances leading to financial problems, but also the individual's subsequent responsible actions, and the Judge appropriately considered Applicant's failure to evidence repayment arrangements with either tax authority or payments made on the delinquent tax balances to find the condition inapplicable.

Finally, Applicant challenges the Judge's analysis under the Whole-Person Concept, which he argues "failed to properly and fairly consider that Applicant has a 20-year history of maintaining a Secret security clearance without any security issues." Appeal Brief at 4. An applicant's prior good security record is not a bar to an unfavorable adjudication, and the Government "need not wait until an individual mishandles or fails to safeguard classified information before it can make an unfavorable security clearance decision." *See* ISCR Case No. 08-00435, 2009 WL 848722 at *2 (App. Bd. Jan. 22, 2009) citing *Adams v. Laird*, 420 F.2d 230, 238-39 (D.C. Cir. 1969).

---

[1] Directive ¶ E3.1.29.

Conclusion

Applicant has not established that the Judge's conclusions were arbitrary, capricious, or contrary to law. Rather, the Judge examined and weighed the evidence and articulated a satisfactory explanation for the decision. The record is sufficient to support that the Judge's findings and conclusions are sustainable. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Dep't of the Navy v. Egan*, 484 U.S. 518, 528 (1988). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

Order

The decision in ISCR Case No. 25-01349 is **AFFIRMED**.

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer Goldstein
Jennifer Goldstein
Administrative Judge
Member, Appeal Board